

REMARKS

Claims 1-39 are pending in this application and have been amended as indicated above.

Double Patenting

The Office has rejected claims 1-39 under the doctrine of obviousness-type double patenting over the claims of U.S. Patent No. 6,586,10 and co-pending application 09/898,519 (collectively, "the co-pending claims"). The Office argues that although the claims are not identical, they are not patentably distinct from each other for the reasons listed on pages 3-4 and 6-7. Applicant respectfully traverses this rejection.

The Office focuses on the fact that there exists overlapping subject matter and that the requirement of a honeycomb core and a structural component does not patentably distinguish the present claims from the co-pending claims. The Office contends that each section of the contoured structural member of the co-pending claims would qualify as a structural component. The Office further argues that certain co-pending claims specify further structural components.

Applicant respectfully disagrees. As evidenced above, the pending claims recite structural members that are bent or substantially non-straight. Thus, the Office must show that the claimed structural member, which is bent or substantially non-straight, is taught or suggested by the claims of the co-pending applications. The Office, however, has not met this burden. Indeed, the Office has not provided any reasoning why the skilled artisan would have modified the invention recited in the co-pending claims to arrive at the bent or substantially non-straight structural member of the present claims.

Thus, the Office has not substantiated a sufficient basis for this ground of rejection and Applicant respectfully requests withdrawal of this rejection.

Rejection – 35 U.S.C. § 102(b) over Layte

The Office has rejected claims 1-2, 5-7, 10-13, 15, 17, 21-24, and 36-39 under 35 U.S.C. § 102 (b) as being anticipated by Layte (U.S. Patent No. 2,816,665), for the reasons listed on pages 5-6 of the Office Action. Applicant respectfully traverses this rejection.

As amended, the rejected claims contain one of two limitations: that the structural member contains an intermediate layer with a honeycomb core structure and/or that the structural member is bent or substantially non-straight. The Office, however, has not substantiated that Layte anticipates claims either of these limitations. In particular, the Office has not shown that Layte teaches a structural member that is bent or substantially non-straight. Indeed, based on manner in which it is formed and the Figures, it is unlikely that the Office can show that the structural member of Layte is bent or substantially non-straight.

As well, it would appear that the Office recognizes that Layte does not teach or suggest a structural member with an intermediate layer having a honeycomb core structure. In the Office Action, the Office did not reject claims over Layte that already contained this limitation. In any event, it is unlikely that the Office can show that the rejected claims would have been obvious over Layte. Layte forms a structural member (i.e., a filter element) using a metal sheet 11 that contains a pattern of ribs 17 and slots 16. *See column 2, lines 12-41.* The ribs 17 and slots 16 have a very specific purpose during forming and operating the filter element. *See column 3, lines*

47 through column 4, line 11. Thus, this skilled artisan would have had no motivation to modify the pattern of ribs and slots disclosed by Layte.

The Office notes that Layte does not disclose the same process steps, but argues that since there are substantially similar products, the burden of proof is shifted to Applicant to show that the claimed product is patentably distinct. As noted above, the products are not substantially similar: the claimed structural member contains a honeycomb core intermediate section and/or a sent/substantially non-straight shape.

For the above reasons, the Office has not substantiated that Layte anticipates the rejected claims. Accordingly, Applicant requests withdrawal of this ground of rejection.

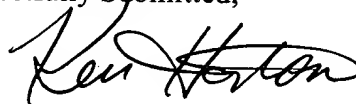
CONCLUSION

For the above reasons, Applicant respectfully requests the Office to withdraw the above grounds of rejection and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

By



KENNETH E. HORTON
Reg. No. 39,481

Date: December 16, 2003